

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

14-1263

AQUA SHIELD, INC.

Plaintiff-Appellant

v.

INTER POOL COVER TEAM, ALUKOV HZ SPOL. S.R.O., ALUKOV
SPOL, S.R.O., POOL & SPA ENCLOSURES, LLC

Defendants-Appellees

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH IN CASE NO. 2:09-CV-00013**

**CORRECTED APPELLEES' MOTION TO EXTEND TIME FOR
FILING RESPONSIVE BRIEF FOR ELEVEN DAYS FROM MAY 12,
2014 TO MAY 23, 2014; SUPPORTING DECLARATION**

Gregory J. Coffey
COFFEY & ASSOCIATES
310 South Street
Morristown, New Jersey 07960
Phone: (973) 539-4500
Fax: (973) 539-4501

H. Dickson Burton
TRASK BRITT, PC
230 South 500 East, Suite 300
Salt Lake City, Utah 84110
Phone: (801) 532-1922
Attorneys for Defendants-Appellees

Form 9

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Aqua Shield, Inc. v. Inter Pool Cover Team

No. 14-1263

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Inter Pool Cover Team, Alukov HZ spol. S.r.o., Alukov, spol. S.r.o. ("Alukov"), and Pool & Spa Enclosures, LLC

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

None

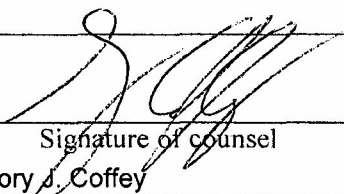
4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Coffey & Associates; Gregory J. Coffey, Esq., Richard J. Dewland, Esq.

Trask Britt; H. Dickson Burton, Esq., Brandon Meachem, Esq.

February 7, 2014

Date


Signature of counsel

Gregory J. Coffey

Printed name of counsel

Please Note: All questions must be answered

cc: Todd Zenger, Esq.

Form 9

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Aqua Shield, Inc. v. Inter Pool Cover Team

No. 14-1263

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:
Alukov HZ spol. S.r.o.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:
None

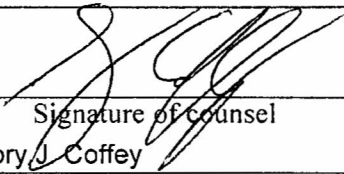
3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:
None

4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Coffey & Associates; Gregory J. Coffey, Esq., Richard J. Dewland, Esq.
Trask Britt; H. Dickson Burton, Esq., Brandon Meachem, Esq.

May 8, 2014

Date


Signature of Counsel

Gregory J. Coffey

Printed name of counsel

Please Note: All questions must be answered

cc: _____

Form 9

FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Aqua Shield, Inc. v. Inter Pool Cover Team

No. 14-1263

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Alukov, spol. S.r.o.

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

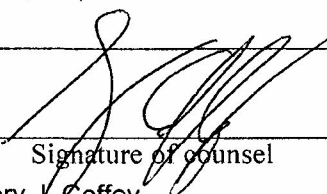
None

4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Coffey & Associates; Gregory J. Coffey, Esq., Richard J. Dewland, Esq.
Trask Britt; H. Dickson Burton, Esq., Brandon Meachem, Esq.

May 8, 2014

Date


Signature of counsel

Gregory J. Coffey

Printed name of counsel

Please Note: All questions must be answered

cc: _____

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FORM 9. Certificate of Interest

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

Aqua Shield, Inc. v. Inter Pool Cover Team

No. 14-1263

CERTIFICATE OF INTEREST

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party)

Appellee certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

Pool & Spa Enclosures, LLC

2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

None

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

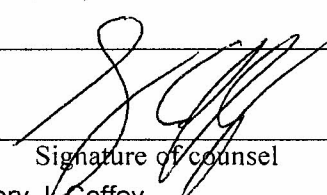
None

4. ☐ The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Coffey & Associates; Gregory J. Coffey, Esq., Richard J. Dewland, Esq.
Trask Britt; H. Dickson Burton, Esq., Brandon Meachem, Esq.

May 8, 2014

Date


Signature of counsel

Gregory J. Coffey

Printed name of counsel

Please Note: All questions must be answered

cc: _____

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellees, Inter Pool Cover Team (“IPC”), Alukov HZ spol. S.r.o., Alukov, spol, S.r.o. (“Alukov”), and Pool & Spa Enclosures, LLC (“Pool & Spa”) (collectively referred to herein as “Appellees”) respectfully move for an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief.

By Notice entered March 31, 2014, Appellees’ brief is currently due on May 12, 2014. (*Declaration of Gregory J. Coffey*, ¶3). Appellees seek an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief. Prior to filing this motion, counsel for Appellees contacted counsel for Appellant, Aqua Shield, Inc. (hereinafter referred to as “Appellant”) by telephone on May 8, 2014 to advise him that Appellees would seek an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief. (*Declaration of Gregory J. Coffey*, ¶4). By telephone and by electronic mail on May 8, 2014, counsel for Appellant advised that it did not object to and would not oppose Appellees’ request for an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief. (*Declaration of Gregory J. Coffey*, ¶4).

Appellees have not previously requested any extension of time to file their brief. (*Declaration of Gregory J. Coffey*, ¶5). As set forth within the attached Declaration of Gregory J. Coffey, Esq., the within motion is based upon counsel's request for a brief extension of the submission date necessitated by emergent family and medical circumstances in Minneapolis, Minnesota.

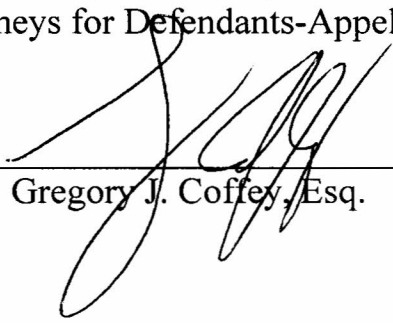
Extraordinary circumstances exist for the requested brief extension, as set forth in detail in the attached Declaration of Gregory J. Coffey. An unexpected and unanticipated medical condition and procedure involving Mr. Coffey's eighty-eight (88) year old mother residing in Minneapolis, Minnesota arose on May 8, 2014. (*Declaration of Gregory J. Coffey*, ¶7). This medical condition and procedure will compel Mr. Coffey to travel to Minneapolis and is anticipated to keep him out of the office for seven (7) days. (*Declaration of Gregory J. Coffey*, ¶9). Mr. Coffey served as designated trial counsel for Appellees and conducted the entire trial on Appellees' behalf in the United States District Court for the District of Utah. (*Declaration of Gregory J. Coffey*, ¶13).

Counsel for Appellees has at all times exercised diligence to provide the United States District Court for the District of Utah timely and professional briefing. An eleven (11) day extension for Appellees' brief

would enable counsel to do the same in this Court, while at the same time fulfilling his obligation to address his mother's medical condition and procedure in Minneapolis. No significant delay of this matter will result from such a brief extension. With the requested extension, briefing of this matter would still be completed within six (6) months of the filing of this Notice of Appeal on January 27, 2014. (*Declaration of Gregory J. Coffey*, ¶12).

For these reasons, and the reasons set forth in the attached Declaration of Gregory J. Coffey, Appellees' respectfully request that this motion be granted and that they be allowed until and including May 23, 2014 in which to file their responsive brief.

COFFEY & ASSOCIATES
Counsellors at Law
310 South Street
Morristown, New Jersey 074960
Attorneys for Defendants-Appellees

By: 
Gregory J. Coffey, Esq.

Dated: May 8, 2014

DECLARATION OF GREGORY J. COFFEY

Gregory J. Coffey, Esq. of full age being duly sworn according to law, deposes and says:

1. I am an attorney at law of the State of New Jersey, and I am admitted to practice in the United States Court of Appeals for the Federal Circuit. I am a member of the law firm of Coffey & Associates, counsel for Defendants-Appellees, Inter Pool Cover Team (“IPC”), Alukov HZ spol. S.r.o., Alukov, spol. S.r.o. (“Alukov”), and Pool & Spa Enclosures, LLC (“Pool & Spa”) (collectively referred to herein as “Appellees”) in the within appeal. In accordance with Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), I respectfully submit this declaration in support of Appellees motion for an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief. Except as otherwise stated, the matters set forth herein are based upon my personal knowledge, and I could and would testify competently thereto if called upon to do so.

2. The United States District Court for the District of Utah entered its initial judgment on August 15, 2013. Appellants filed a motion to amend the initial judgment pursuant to Rule 59 of the Federal Rules of Civil Procedure on September 12, 2013. The District Court granted in part and

denied in part the Rule 59 motion in its Memorandum Decision and Order entered December 9, 2013. The District Court entered its Amended Judgment on December 12, 2013. This appeal followed.

3. Appellant, Aqua Shield, Inc. (“Appellant”) filed its Corrected Opening Brief on April 11, 2014. Pursuant to a Notice entered March 31, 2014, Appellees’ brief is currently due on May 12, 2014.

4. Prior to filing this motion, I contacted Todd Zenger, Esq., counsel for Appellant, Aqua Shield, Inc. (hereinafter referred to as “Appellant”) by telephone on May 8, 2014 to advise him that Appellees would seek an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief. By telephone and by electronic mail on May 8, 2014, Mr. Zenger advised that he did not object to and would not oppose Appellees’ request for an eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief.

5. Appellees have not previously requested any extension of time to file their responsive brief.

6. A brief eleven (11) day extension, through and including May 23, 2014 is necessary to provide counsel for Appellees sufficient time to prepare Appellees responsive brief. Such a brief extension is necessary because of the extraordinary personal medical circumstances that developed

without notice on May 8, 2014 that will compel me to travel to Minneapolis, Minnesota right away.

7. During the afternoon of May 8, 2014, I learned that my eighty-eight (88) year old mother residing in Minneapolis, Minnesota developed a medical condition that needs to be addressed and treated immediately. As such, I could not have reasonably foreseen and/or communicated the exigency of the circumstances I have been confronted with before now.

8. Due to the development of this medical condition, I am compelled to travel to Minneapolis immediately to address and care for my mother.

9. I have been advised that given my mother's advanced age, any medical procedure and recovery, if necessary, will last about seven (7) days, thus requiring me to be in Minneapolis and out of my office in New Jersey during that time period.

10. Given the level of time, effort and involvement my mother's condition will require me to expend in Minneapolis, Minnesota, it will be impossible for me to devote the necessary time to complete the Appellees' responsive brief in this matter by May 12, 2014.

11. The preparation and submission of Appellees' responsive brief represents an extremely complex and time-consuming task, especially in a complex patent action such as the instant matter.

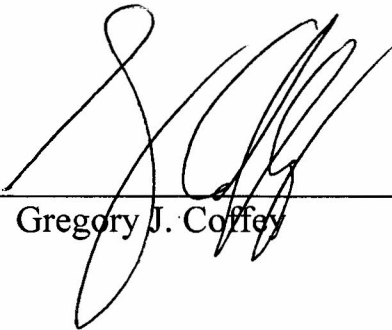
12. Permitting Appellees with a brief eleven (11) day extension of time, to and including May 23, 2014, in which to file their responsive brief would cause no prejudice to any party or the Court and would afford me with the opportunity to travel to Minneapolis and care for my eight-eight (88) year old mother. Moreover, no significant delay of this matter will result from such a brief extension. With the requested extension, briefing of this matter would still be completed within six (6) months of the filing of this Notice of Appeal on January 27, 2014. Thus, granting the relief sought by the Appellees would have no prejudicial impact on either the Court's docket or the parties in this matter.

13. I served as designated trial counsel for Appellees and conducted the entire trial on Appellees' behalf in the United States District Court for the District of Utah. I have at all times exercised diligence to provide the United States District Court for the District of Utah timely and professional briefing. An eleven (11) day extension for Appellees' brief would enable me to do the same in this Court, while at the same time fulfilling my

obligation to address his mother's medical condition and procedure in Minneapolis.

14. For all of the foregoing reasons, due to the extraordinary personal medical circumstances involved, the fact that the Appellant does not object to the extension request herein, the fact that Appellees have not previously requested any extension of time to file their brief, and because no significant delay to the briefing and appeals process will occur, Appellees respectfully submit that extraordinary circumstances exist to briefly extend the submission date for Appellees' responsive brief for eleven (11) days, to and including May 23, 2014.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Gregory J. Coffey

Dated: May 9, 2014

PROOF OF SERVICE

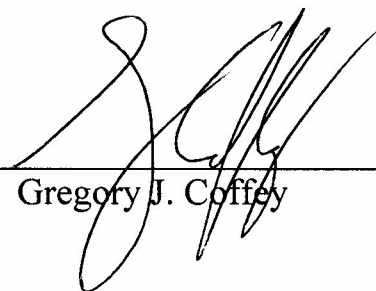
Gregory J. Coffey, Esq. hereby certifies that:

1. On this date, I caused one (1) copy of defendants-appellees, Inter Pool Cover Team (“IPC”), Alukov HZ spol. S.r.o., Alukov, spol, S.r.o. (“Alukov”), and Pool & Spa Enclosures, LLC (“Pool & Spa”) (collectively referred to herein as “Appellees”) Motion to Extend the Time Period with which to Submit Their Responsive Brief for Eleven (11) Days Up to and Including May 23, 2014, and Declaration of Gregory J. Coffey, Esq., in support thereof, to be electronically filed in PDF format via the Electronic Case Filing System.

2. On this date, I caused one (1) copy of defendants-appellees, Inter Pool Cover Team (“IPC”), Alukov HZ spol. S.r.o., Alukov, spol, S.r.o. (“Alukov”), and Pool & Spa Enclosures, LLC (“Pool & Spa”) (collectively referred to herein as “Appellees”) Motion to Extend the Time Period with which to Submit Their Responsive Brief for Eleven (11) Days Up to and Including May 23, 2014, and Declaration of Gregory J. Coffey, Esq., in support thereof, to be served upon the attorneys listed below, by electronic case filing:

Todd E. Zenger, Esq.
KIRTON & McCONKIE
1800 Eagle Gate Tower
60 East South Temple
Salt Lake City, Utah 84111

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.



Gregory J. Coffey

Dated: May 9, 2014